Communiqué

MAY, 2005

IN THIS ISSUE:

Hit your Back Button to return to the top of this index.
Return to Home Page

Regular Columns
President's Report ✣ Benchers' Meeting Highlights ✣ Allan's Odds and Ends ✣ Equity Ombudsperson's Report ✣ Membership Changes ✣ In Memoriam

Special Features
Waiting for the Phone to Ring ✣ 2005 - The Year of Identity Theft ✣ 50 Year Honourees

Notices to the Profession
Notice of Benchers' Meeting ✣ Notice of Annual Meeting ✣ Notice to the Profession Re: Money Laundering and Rules Restricting Receipt of Cash ✣ Insurance Claims Over $1 Million ✣ Speak Now or Forever Hold Your Peace ✣ Paperless Communiqué ✣ Important Privacy Information ✣ Discipline Notices

PRESIDENT'S REPORT

The View from the Outback

William Johnston
President

There are about 1,700 of us practising in this province. About 250 of us get to view the world from outside the great escarpment, known as the Perimeter Highway.

We like to make little jokes: That meetings in Brandon cannot start before 10

a.m. to allow for travel time, but meetings in Winnipeg should start at 8 a.m. so that we can get something done after it's over! It is much further from Winnipeg to Brandon than it is from Brandon to Winnipeg, and it's uphill! Meetings in Brandon must be finished by 3 p.m. because they roll up the highway and lock the gate at 5 p.m.!

The truth is, we are the privileged ones. Many of my fellow practitioners in "rural" (those of us from Brandon, Portage, Thompson, Steinbach, Selkirk and Dauphin find the word mildly offensive) Manitoba will be angry with me for letting the cat out of the bag. Practising law outside the City of Winnipeg has many advantages.

Rapid Advancement

A young lawyer who chooses to leave the City of Winnipeg and locate somewhere in the rural region, can expect to face significant practising challenges or opportunities immediately. Whether their preferred area of practice is the courtroom or as a solicitor conveying, securing, and drafting, they can expect significant work. By that, I mean quality and quantity.

If the young lawyer is interested in practising criminal law (I prefer not to call them criminal lawyers), then in no time the local Crown Attorney will be calling them by their first name. The local detachment will have the lawyer's home phone number posted on their wall and the local Judge will not be needing the young lawyer to introduce him/herself at the commencement of the Court proceeding.

The young lawyer interested in family law will soon be advocating an interim property distribution for the spouse of the local proprietor of Blackacre, or seeking interim custody against the Mayor or the Reeve of the local RM.

A young solicitor will soon be having lunch with the local Credit Union manager, placing security on Blackacre for Farm Credit, and applying for probate for the estate of the local matriarch.

Variety

My own philosophy when I started practice was not to refuse anything for the first two years. Anyone who came in the door, whether their matter was a Legal Aid Child and Family Services case, an aggravated sexual assault charge, a Small Claim collection, or a $20,000 mobile home transaction, I accepted the retainer. You never knew what it might lead to as the next opportunity. After twenty years of practice, I've seen the mobile home purchaser become the Reeve of the RM, and now I'm their Municipal solicitor. I have twice been to the Court of Appeal on water rights issues.

Also, what a world of experience. I never knew that saying "yes" to a Legal Aid certificate to do a Social Services appeal in 1985 could result in a professional relationship with a provincial government employee, now crafting legislative amendments on my consultation, in 2005.

Relationships Within the Bar

We practise "friendly" law in rural Manitoba. The clients can have their dispute and we'll happily litigate their position, just not at the cost of our professional reputations. My mentor taught me that we are on the same team. Lawyers are easy targets for their clients, the party adverse, the Court, the media, and the public. The only real thing that we have is each other.

We are hired guns who can argue the merits of our clients' positions vociferously and aggressively. However, our "learned friend" is our friend, and sharp practice is not good practice.

If a compatriot needs assistance, we are there to help. Making an appearance for them when they're double booked, lending them a precedent to work from, or consenting to the adjournment because they have a vacation planned for that week.

"What goes around, comes around." The next time that I need the favour, I know that I can rely on the other lawyer. In 20 years, I have found that lawyers who are not team players tend not to be around too long.

There are enough clients for all of us in rural Manitoba. In fact, most of us view our available workload as "overloaded." Stealing clients is not needed. I am proud to say that a large part of my current practice is conflict work for clients of other firms.

On the solicitors' side, we have a standardized set of trust conditions that are periodically reviewed and discussed. We can convey properties with only occasional phone calls to confirm unusual happenings or terms. That is part of the reason that I am such an advocate of the "Protocol." Practice can and should be standardized throughout the province and. therefore, throughout Western Canada.

Quality of Life

I've debated this point with many lawyers, resident in and out of the City of Winnipeg. I believe that I have the best of both worlds.

My home city has all of the amenities of the big city - in fact, we have the ONLY major hockey franchise in the province. No, sorry, the Moose, like the Goldeyes, are minor league!

We have a multi-screen theatre, a series of unique restaurants (franchised and independents), a university that brings multicultural opportunities to the community, the Western Manitoba Centennial Auditorium and "the Evans" at the University, for music, stage and "fringe" performances. Also, we have the Keystone Centre, with tradeshows, the Royal Manitoba Winter Fair, and "hosting" opportunities galore.

We call Brandon, the "biggest, little city in Canada." The volunteer spirit, always

re-enforced by direct participation by some member of the local bar, has enabled us to develop a "host site" reputation that is widely recognized.

I would NOT describe it as "slower." In fact, I would argue that our closer proximity to the activities inspires MORE activity. The same can be said for many other non-Winnipeg locations.

The North is a dream location for anyone who loves the outdoors! The Southeastern region of the province is a hotbed for economic activity and has a couple of golf courses that are far superior to any in the City of Winnipeg. The City of Dauphin annually hosts "Countryfest" and "the National Ukrainian Festival."

I am only scratching the surface.

The other point is, we still have Winnipeg, within short travelling distance, when we desire it.

The Bottom Line

By the time that you read this, my term as President of the Law Society of Manitoba will have ended. The opportunity to have served the public and the profession at this level is something that I will always appreciate and cherish.

The experience that I have received, within the province and at the national level, is something that few lawyers can say that they have enjoyed.

I have often asked myself, would this opportunity have ever come my way if I was in private practice in Winnipeg? I feel that the answer is "no." It is just one other opportunity that has come my way because I am one of the approximately 250 "privileged" few.

A good friend of mine, also a "learned friend" of mine, born and raised in Winnipeg, "temporarily" located to article in rural Manitoba about 30 years ago. After 30 or so years of practising, I think that he is prepared to remove the "temporary" from the relocation plan. He is now one of us.

Thank you for allowing me this opportunity and thank you for all of your support and good wishes. Those taillights that you see in the Western horizon are me, although I know that they are difficult to see over the escarpment.

Back to TOP

Benchers Meeting Highlights: New Slate

Allan Fineblit, Q.C.
Chief Executive Officer

On May 12, 2005 the Benchers met and elected a new President and Vice President and appointed new committees. **Garth Smorang, Q.C.**, was elected President and **Donna Miller, Q.C.**, was elected Vice President. **David Kroft** will chair the Complaints Investigation Committee and **Rob Kozak** will serve as Vice Chair. **Jeff Hirsch** will chair the Discipline Committee and **Gord Hoeschen** and **Jon van der Krabben** will serve as Vice Chairs. **Grant Mitchell, Q.C.**, will chair the Admissions and Education Committee and **Christina Kopynsky, Q.C.**, will serve as Vice Chair. **Bill Gange** will chair the Practice and Ethics Committee (which will be charged with revising the Code of Professional Conduct) and **Irene Hamilton** will serve as Vice Chair. **Pat Fraser** will chair the Reimbursement Fund Claims Committee. **Todd Rambow** will chair the Equity Committee and Kerry Pearlman will chair the Insurance Committee.

Past President **Bill Johnston** was awarded a Life Bencher Certificate and a by-election is underway in Western Manitoba to elect a replacement. **Paul Jensen** was also awarded a Life Bencher Certificate, having completed eight years of service as a Bencher, and **Jennifer Cooper, Q.C.**, was appointed to fill the vacancy.

Out going Past President **Patrick Riley** addressed the Benchers and expressed his appreciation for their support during his time on the Bench.

Not the least bit tired out from the elections, speeches and the awards, the Benchers went on to deal with several challenging policy matters.

The Benchers passed in final form,the rules which prohibit lawyers from receiving large amounts of cash. The "no cash" rule will take effect on June 30, 2005 (see the article on page 4). Every law society in Canada has agreed to pass a similar rule because there appears to be no legitimate reason for lawyers to receive large amounts of cash (except for the few exceptions set out in the rule) and it is hoped that this will reduce opportunities for unscrupulous clients to use lawyers to facilitate money laundering activities.

The Benchers reviewed the questions we currently ask those entering the profession (or re-entering after being out of practice for a while) and concluded that questions about prior mental health history and addiction history did not provide any information that could be shown to be relevant to determine the likelihood that future practice problems would arise. As such, our application forms will no longer ask those kinds of questions. Members and students will still be asked to disclose any circumstances that might affect their ability to practise safely and effectively.

Benchers received a monitoring report on investment performance and were also delighted to be in a position to reduce the insurance levy by $110 for next year.

The Benchers voted to support the intervention by the Federation of Law Societies in support of a challenge by the Law Society of Upper Canada to the new federal system of regulating immigration consultants.

Garth Smorang, Q.C., New Law Society President

On May 12, 2005 Garth Smorang was elected as the 85th President of the Law Society of Manitoba. Garth is a partner at Myers Weinberg LLP, where he practises in the area of labour relations and employment law. Garth has been a Bencher since 1998.

Donna Miller, Q.C., New Vice President

Donna Miller was elected Vice President of the Law Society of Manitoba on May 12, 2005. Donna is an Associate Deputy Minister with Justice Canada and has been a Bencher for six years.

Back to TOP

Allan's Odds and Ends

Allan Fineblit, Q.C.
Chief Executive Officer

1. Talk about a good week…a few days after getting elected as Vice President of the Law Society of Manitoba, the Prime Minister (who had a pretty good week of his own) announced the appointment of Donna Miller, Q.C., as an Associate Deputy Minister of Justice.

2. Timing is everything…just as she was about to board an airplane to chair a meeting of the Federation of Law Societies of Canada, Lori Spivak received a call from Justice Minister Irwin Cotler letting her know that she, along with Lori Douglas, had just been appointed to the Court of Queen's Bench. Lori decided she could come to the parties but on the advice of the Chief Justice, couldn't do any work.

3. Congratulations to Ken Nielsen, Q.C., of Fraser Milner Casgrain in Edmonton, who was appointed as President of the Federation of Law Societies of Canada to complete Lori Spivak's term.

4. Thanks to Wayne Leslie for sending me a faded Winnipeg Tribune from May 17, 1948 with the headline "The Law Society List '48 Exam Results". The article listed every prize winner in every one of the four years of Law School and also the names of everyone who passed every year. I spotted a few names on the list still practising today, 57 years later.

Back to TOP

Annual Report Of The Equity Ombudsperson For The Term January 1, 2004 to December 31, 2004

Brenlee Carrington Trepel
Equity Ombudsperson

A Description of the Program

The Equity Ombudsperson program began as a pilot project of the Law Society of Manitoba in November of 2001. It became a permanent program in 2003.

Contacts with the office have increased steadily since the program first began. In addition to specific issues raised, there have been numerous inquiries about respectful workplace policies and initiatives. The service continues to be accessed by both men and women.

The Equity Ombudsperson provides confidential and neutral assistance to lawyers, support staff working for legal employers, articling students and clients who have concerns about any kind of discrimination or harassment. She cannot reveal to anyone, including the Law Society, the identity of those who contact her about a complaint or the identity of those about whom complaints are made. Her only reporting to the Law Society is of a general statistical nature in setting out the number and type of calls received.

The goal of the Equity Ombudsperson is to resolve problems. In doing so, she maintains a neutral position and does not provide legal advice. She can tell complainants about the options available to them, which include filing a formal complaint with the Law Society or with the Human Rights Commission; commencing a civil action, or having the Ombudsperson attempt to resolve informally or mediate a discrimination or harassment dispute.

The Equity Ombudsperson is also available to consult with and assist any private or public law office wanting to raise staff awareness about the importance of a respectful workplace environment. The Equity Ombudsperson is available to assist law firms in developing office policies on parental leave, alternative work schedules, harassment and a respectful workplace. She can provide educational seminars for members of firms, is available for personal speaking engagements and informal meetings, or can talk confidentially with a firm about a particular problem. The services of the Equity Ombudsperson are provided free of charge.

The Equity Ombudsperson program has been a growing trend among Canadian law societies since 1995. Currently the Law Societies of Manitoba, British Columbia, Alberta, Ontario and Saskatchewan have Equity Ombudspeople. The Nova Scotia Barristers' Society has a staff Equity Officer who fulfills a similar role. The Barreau du Quebec is currently researching the implementation of a

similar program.

Simply by establishing the service, the Law Society of Manitoba is sending a positive reminder to the legal profession about the importance of treating everyone equally, with respect and dignity. Achieving this goal is crucial to ensuring a thriving legal profession for the future.

Objectives Met for 2004 Include:

1. To raise public awareness of the Equity Ombudsperson service
2. To educate Manitoba's legal profession about respectful workplace issues
3. To handle individual concerns and complaints about discrimination and harassment
4. To consult with members of the profession on respectful workplace issues
5. To conduct speaking engagements about the issues
6. To consult on respectful workplace policies and initiatives
7. To write articles for the profession
8. To continue to distribute the Equity Ombudsperson informational brochure (developed in '02 with Marilyn Billinkoff)
9. To follow-up on contacts made through the confidential phone line, fax, e-mail and post-office box
10. To communicate with provincial Equity Ombudsperson counterparts and other equity experts
11. To initiate meetings with legal employers to inform them of the service

Conclusion

This year, the office experienced an increase in the number of female contacts. These contacts were evidenced by increases in almost all categories.

The Equity Ombudsperson program has received a positive response during the last year, and will continue education and outreach initiatives in addition to handling individual concerns and complaints.

As the legal duty to accommodate is a growing area of the law, perhaps the

Equity Ombudsperson could work together with the Equity Committee to create a model accommodation policy for the LSM Website.

Thanks are extended to Allan Fineblit and to the Law Society of Manitoba for their support of this service and in particular to Marilyn Billinkoff for all of her assistance and wise counsel. Thanks as well to the Equity Committee for its hard work.

The Equity Ombudsperson can be reached by phone at 942-2002 in Winnipeg and toll free at 1-866-771-2002. The e-mail address is: brenleecarrington@shaw.ca. All contacts are strictly confidential and all services are provided free of charge.

Comparative Usage Statistics

	2003	2004
Contacts made with the office		
Winnipeg	188	270
Outside Winnipeg	76	108
Total Contact	**264**	**379**

Note: some contacts resulted in more than one issue.

Issues Addressed		
General information	139	204
Offiicy policy concerns	67	70
Dicuss or request an article or presentation	100	154
Discuss a specific concern or issue		
Discrimination	158	242
Sexual harrasment	57	95
Workplace harassment	25	82
Leave policy	44	139

Profile of Contactss

Lawyers	171
Partners	61
Clients	111
Students	8
Support Staff	27
Males	127 134
Females	137 244

Back to TOP

Membership Changes

The following members have voluntarily changed their status as indicated on the dates shown:

Practising to Non-Practising:
April 1, 2005 Eugene N. Hretzay
April 1, 2005 Richard W. Irish
April 1,2005 Kenneth E. Andrews
April 1, 2005 Andreas Papadopoulos
April 1, 2005 W. Alan Simms
April 1, 2005 Sherry D. Wiebe
April 1, 2005 Derwin Petri
May 1, 2005 Renee D. Lagimodiere
May 25, 2005 Jeffrey J. Niederhoffer

Practising to Inactive:
April 1, 2005 Alice Tu
April 1, 2005 Bruce W. Drever
April 1, 2005 Haas D. Pandya
April 1, 2005 Jessica J. Cogan
April 1, 2005 Raymond H.G. Flett
April 1, 2005 Lana Viheriasalo
April 1, 2005 D. Kent Paterson
April 1, 2005 Jeffrey J. Plantje
April 14, 2005 R. Kenneth F. Champagne
April 14, 2005 Christine V. Harapiak
April 14,2005. Kelly K. Moar
April 15, 2005 Susan L. Waywood
April 22, 2005 Catherine A. Cotter
May 1, 2005 Steven R. Hyman
May 4, 2005 Melinda R. Lofchick
May 20, 2005 Lori T. Spivak
May 20, 2005 A. Lori Douglas

Non-Practising to Practising:
April 1, 2005 Maria V. DeJaeger
April 1, 2005 David B. Greening
April 1, 2005 Jack M. Chapman, Q.C.
April 1, 2005 Pamela A. Harrod
April 1, 2005 Kerri K. Tymchuk
April 18, 2005 Valerie J. Smith
April 26, 2005 Barry C. Effler

Inactive to Practising:
April 18, 2005 Jeffrey T. Dodgson

Call to the Bar:
The following members were called to the Bar of Manitoba on April 29, 2005 after successfully completing the requirements of the bar admission course and articling program:
Ryan T. Amy
Anna M. Tosso

Back to TOP

In Memoriam

Douglas Warren Hilland, Q.C., who passed away on January 22, 2005 at the age of 80. Mr. Hilland received his call to the Bar as a Barrister on December 29, 1950. He began his legal career employed with California Standard (Oil) Co. in Manitoba and then transferred to Alberta in 1953 where he continued to practise law for 32 years. Mr. Hilland resided in Canmore, Alberta at the time of his death.

William Creighton Pearson, Q.C., who passed away on January 25, 2005 at the age of 82. Mr. Pearson received his call to the Bar on May 30, 1949. Following his call, Mr. Pearson began practising law in Brandon. In 1955 he moved to Ottawa, where he was employed with the Air Transport Board, the Department of Defence Production and the Canadian Radio-Television & Telecommunications Commission. In 1965 he returned to Brandon, where he continued to practise law until his retirement in January of 2001. Mr. Pearson was appointed Queen's Counsel on December 31, 1977, was honoured by the Law Society in 2000 for having practised law for 50 years, and was appointed an Honourary Member of the Law Society in February, 2001.

Harold St. George Stubbs, Q.C., who passed away on April 30, 2005 at the age of 92. Mr. Stubbs received his call to the Bar on September 13, 1937. He practised law in Winnipeg with his father and brothers until 1957. Mr. Stubbs served as Secretary of the Law Society of Manitoba from 1958 to 1981 and upon his retirement, was appointed Secretary Emeritus. In 2002, Mr. Stubbs was honoured by the Law Society at its 125th Anniversary celebration. He was appointed Queen's Counsel in 1953.

Mr. Stubbs served as Secretary/Treasurer of the Conference of governing bodies of the legal profession in Canada (now the Federation of Law Societies of Canada) from 1960 to 1972, was a Bencher of The Law Society of Manitoba from 1952 to 1958, and was President of the Manitoba Bar Association in 1957/58. He also lectured at the Manitoba Law School for many years.

Actively involved in the community, Mr. Stubbs also served as Chairman and a member of the Board of the Fort Garry School District. He was elected to the Fort Garry Municipal Council in 1956 and ran as Liberal Candidate in 1957 in Winnipeg North; Center. He was also the President and Director of the Southwood Golf and Country Club and President of the Pembina Curling Club.

Back to TOP

Waiting for the Phone to Ring

Allan Fineblit, Q.C.
Chief Executive Officer

When people ask me if I am busy, I always make a point of saying "no". It does get people's attention. In my experience, our profession is almost always too busy. Partly that is because lawyers get buttonholed a lot to participate on community boards and organizations where their skills are highly valued (not paid for, but valued nonetheless).

It came as a bit of a blow to me when I heard Justice Minister Irwin Cotler speak at the CBA Conference in Winnipeg last summer. He was prodding the legal profession to do pro bono work. Now he wasn t talking about the volunteer time you all put in coaching soccer or packing boxes at Winnipeg Harvest. He wasn't even talking about the thousands of hours of legal expertise you all donate to the many community boards you sit on. He was talking about an organized system to provide free legal services to those who need it.

Some American states have well-developed pro bono models in place. Some Canadian law societies promote pro bono work and the Manitoba Bar Association and the Public Interest Law Centre of Legal Aid Manitoba have an excellent pro bono program which has been running for years.

I think I am the only person who doesn't like the concept. While I'm a big Irwin Cotler fan, I think he's off base on this one. Here's why.

I believe in charity. I believe in community service. I believe in helping others less fortunate. What I don't believe in is offloading important social services to charity. Providing access to justice for all should not be an act of charity. Access to justice is a fundamental right and a basic tenant of a democratic society.

Doctors are paid fairly by government to do their work because we believe in universal access to healthcare. Shouldn't lawyers also be paid fairly to do their work if we believe in universal access to the justice system? While I commend, admire and encourage individual acts of charity, volunteerism and pro bono legal work, I feel very uncomfortable with an organized system of pro bono legal work as a replacement for a state-funded system. Why should a poor person have to depend on charity to get access to a basic right to counsel? Why should lawyers be expected to fund legal help for those in need differently than the rest of society, i.e. through their tax dollars?

So carry on with your busy lives. Keep up the good work on behalf of your clients, give generously to your communities, spend time with your families and friends, and exercise regularly.

One of our recent 50 year honourees reflected on his long career as follows: "When I was in the office I felt guilty because I wasn't with my wife and children and when I was with my wife and children, I felt guilty because I wasn't in the office."

In my opinion, you have enough to feel guilty about already without taking on the added responsibility of an organized commitment to pro bono work. If you have a spare moment though, I recommend you lobby a politician in support of an appropriately funded Legal Aid system as the primary method of ensuring universal access to justice.

Back to TOP

2005 - The Year of Identity Theft

Alan Pollard
Director of Technology

Okay. It wasn't all this year. It's been going on for years and the floodgates really opened about a year ago with a large loss of data from a major credit-reporting agency. Before that there were losses of data from government and private agencies. But in 2005 it's become a major newsmaker with articles in national and local media including a CNN special in May of this year. Also that month, Winnipeg had it's own front page identity theft story .

But what is "Identity Theft"? It's really just good old-fashioned impersonation, given a new twist. First comes the theft. The crooks obtain enough information about you to be useful to them, usually in a monetary sense. Next comes the impersonation. They (or someone to whom they sold your information) pretends to be you and either extracts cash from your bank account using an ATM or gets a credit card in your name and carts off a 42" plasma TV and leaves you with the bill.

The only thing that is really stolen is your good name. And your good credit record.

Getting the Information

To pull off the impersonation part of the crime, the crooks need certain information. The more of it that they have in one place, the more useful it is. That is why credit reporting agencies, banks and other large databases of financial and personal information are such targets. A quick scan of recent news articles shows over a million peoples' information was compromised in May of 2005 alone. The information itself is often obtained through a different kind of impersonation. Credit Agencies routinely sell sensitive financial data. After all, that's what they are in business to do. A bogus collection agency or similar operation can apply for and get access to personal information if the data holder is incautious about

those to whom it sells.

The most valuable information is that which can be used to gain access to existing bank accounts or use existing credit cards. Two of the key pieces are the PIN for the debit card and the CVN for a credit card. The CVN is another three or four digit number in addition to the regular credit card number. It's usually printed on the card but is not a raised number. On-line merchants ask for it as proof that you have the card and not an old credit card slip. Once in possession of these as well as the more easily obtained card number, the crooks can make their own cards for use at ATMs or debit card readers, or for online purchases.

Almost as valuable is enough information to apply for and obtain a new credit card in the name of someone who has a good credit rating, and therefore a high limit. This is a less lucrative method because it is more time-consuming, more complex and leaves a larger paper trail so the probability of getting caught increases. Social Insurance numbers, bank account numbers, addresses, employer and mother's maiden name are among the most common information in this category.

An Ounce of Prevention

There is little you can do to prevent ACME Mega-Data from being imprudent with your personal information. You probably do not do business with them directly and have little or no control over their business practises. But there are some things that you can do.

- Revoke their phishing licence. A phishing scam sends you an apparently authentic e-mail urgently directing you to an apparently authentic bank website and asks you to confirm your information within the next 48 hours or something dire will happen. In reality, banks never do this. They have your information backed up twelve ways from Sunday and if they really did lose it, they wouldn't have anything to confirm against.

- Beware the Internet café or other public terminal. These locations are not secure places to check your bank balance and pay a few bills. Even putting your e-mail ID and password in may be a risk. Once in possession of that information, a crook can both read your e-mail and send e-mail as if he was you.

- Get, use and update anti-virus software. One of the three viruses that came out today (May 30th) is designed to record passwords as you type them and e-mail them to the virus writer.

- Shred that piece of paper. If it contains yet another "You have been pre-approved for..." offer it is probably pre-printed with enough information to assist a crook in getting a new credit card in your name. This also goes for credit card slips and bills, bank statements and other paper with your financial data on it.

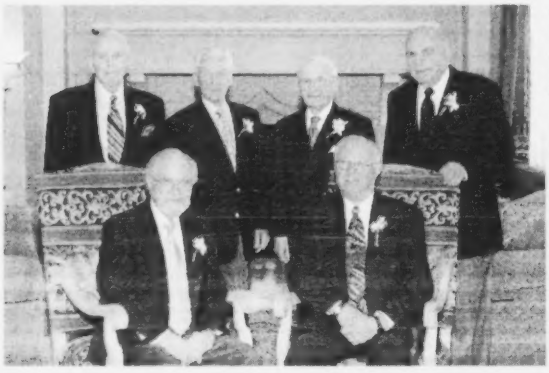
- Guard your PIN. Don't give it out, don't write in down in the same place as

your card (or on it!) and be aware of those around you when you punch it in on a keypad.

- Guard your CVN - Don't give it out unless you are sure that the merchant needs it and you are sure of the merchant.

Back to TOP

50 Year Honourees



Front Row L to R: Allan P. Cantor, Q.C., Gordon C. Pollock; Back Row L to R: Roger J. Hansell, Q.C., George E. Chapman, Q.C., Irvin H. Slusky, Jack M. Chapman, Q.C.; Absent: Walter L. Ritchie, Q.C.

On April 21, 2005 the Law Society of Manitoba honoured seven lawyers who have practised for 50 years or more at a luncheon held at The Fort Garry Hotel. Chief Justice Scott brought greetings on behalf of the Courts and Law Society President William Johnston presented each honouree with a Law Society 50 year watch.

Each honouree spoke briefly about their years of practice. As you can imagine, there were many great stories. For those of you who weren't able to attend, you might want to take note that one of our honourees, Roger Hansell, concluded his remarks by saying, "So in the spirit of the occasion, let me make a promise. A promise that if, God willing, I continue practising law for another nine years, then on the 60th anniversary of my call to the Bar, I will at my own personal expense host a luncheon for the members of the Manitoba Law Society and every member who attends will get a watch." Sounds like a plan!

Back to TOP

Notice of Benchers Meetings

The next regular meeting of the Benchers of the Law Society of Manitoba will be held on **Thursday, June 23, at 9:30 a.m.** in the Society's classroom, 219 Kennedy Street, Winnipeg, Manitoba. Members of the Society are encouraged to attend and participate in the deliberations of the governing body.

Back to TOP

Notice of Annual Meeting

The Annual Meeting of the Benchers of the Law Society of Manitoba will be held on **Thursday, June 23, 2005 at 12:30 p.m.** in the Society's classroom, 219 Kennedy Street, Winnipeg, Manitoba.

Back to TOP

Notice to the Profession About Money Laundering And Rules Restricting the Receipt of Cash

Marilyn Billinkoff
Deputy Chief Executive Officer

Sherri Jack
Director of Audit

The Benchers of the Law Society of Manitoba have approved rule amendments to assist in the fight against money laundering by prohibiting lawyers from accepting large amounts of cash from clients or third parties.

On June 30, 2005, amendments to several sections of Part 5 – Division 4 of the Law Society Rules dealing with lawyer's financial records will take effect to implement the Federation of Law Societies model rule on cash transactions. Similar rule changes have or are in the process of being made by law societies across Canada. Amendments to Chapter 3 of the Code of Professional Conduct - *(click here for French)* - (Advising Clients) will also take effect in order to alert lawyers to the dangers of unwittingly becoming involved with clients engaged in criminal activities such as money laundering.

The Rule Highlights

- Lawyers are prohibited from receiving cash in an aggregate amount of $7,500 or more (Canadian) in respect of any one client matter or transaction.

- However, this rule does not apply if the member receives cash in the following situations:
  - from a financial institution or public body;
  - from a peace officer, law enforcement agency or other agent of the Crown acting in his or her official capacity;
  - pursuant to a Court Order;
  - to pay a fine or penalty; or
  - for professional fees, disbursements, expenses or bail, provided that any refund out of funds is also made in cash. (Note, that where such a refund is made, the rules require the member to obtain a signed and dated acknowledgement of the payment from the person who receives the refund.)

- Members who receive cash in a foreign currency should refer to Rule 5-53.2 for the requirements regarding the conversion to the equivalent Canadian amount.

Additional Record Keeping Requirements

In addition to the record keeping requirements currently set out in the rules, there are a number of new provisions relating to the receipt of cash:

1. Members must record, in their book of original entry, the form in which money is received for all trust and general receipts (i.e. cash, cheque, electronic deposit, bank draft etc.).

2. General and trust records, if entered and posted by hand, must be entered and posted in ink.

3. General and trust records must be entered and posted so as to be current at all times (previously this provision applied only to the trust records).

4. Members must keep their trust and general records for at least 10 years.

5. A duplicate cash receipt book must be maintained with respect to cash received for the general and trust accounts. The receipts must include the following details:
   - The date cash is received;
   - The person from whom cash is received;
   - The amount of cash received;
   - The client for whom the cash is received;
   - The relevant file number;
   - The signature of the member or person authorized by the member to receive cash;
   - The signature of the person from whom cash is received.

The Law Society's Annual Trust Account Report (both the Form D and Self-Report) will also be amended to require that lawyers advise the Law Society if they have received cash, and if so, whether it was received in compliance with the trust accounting rules.

The complete text of the new "no cash rules" and the new rules will be circulated as part of the June Handbook Update.

Amendments to Chapter 3 of the Code of Professional Conduct

Chapter 3 of the Code (Advising Clients) has been amended to require lawyers to be vigilant and alert to avoid becoming involved with clients' money laundering activities. The commentary sets out the lawyers' responsibilities when their suspicions are raised about the legality of transactions for which the lawyers receive instructions. The complete text of the amendment will be found in the commentary to paragraph 7 of Chapter 3 of the Code.

The above amendments, together with the existing Rules, Code provisions, and Law Society Spot Audit Program, will enhance the ability of Manitoba's legal profession to prevent money laundering.

For more information about the impact of these changes on lawyers' financial recordkeeping requirements please contact Sherri Jack, Director of Audit at 942-5571.

Back to TOP

Insurance Claims Over $1 Million

All Insured lawyers in the Province of Manitoba have mandatory insurance coverage of $1 Million. However, claims can and do exceed $1 Million. Lawyers and law firms without excess insurance have to satisfy any claims over $1 Million out of their own pockets. Also, the $1 Million mandatory coverage includes damages and defence costs, so legal fees spent on behalf of the Insured lawyer erode those limits.

It is no longer an unusual event to see a Statement of Claim against a lawyer claim well in excess of $1 Million. In other Canadian jurisdictions, it has become routine to pay out claims of this magnitude. Therefore, we encourage every firm to think about to what extent the firm members want to be personally exposed.

Excess coverage can be purchased through the Canadian Lawyers Insurance Association (CLIA) in amounts from $1 to $9 Million in excess of the $1 Million mandatory insurance. CLIA's rate structure and applications are available from the Professional Liability Claims Fund Department of The Law Society of Manitoba. Other excess insurance can also be purchased through local brokers.

If you have any questions about excess insurance, please contact Bonnie Harvey or Tana Christianson of the Professional Liability Claims Fund.
Tana Christianson 926-2011
Bonnie Harvey 926-2026

Limit of Liability	Premium Rate per Lawyer (July 1, 2005 to July 1, 2006)
$1,000,000 per occurrence/and aggregate	$465
$2,000,000 per occurrence/and aggregate	$644
$3,000,000 per occurrence/and aggregate	$823
$4,000,000 per occurrence/and aggregate	$966
$9,000,000 per occurrence/and aggregate	$1,497

Back to TOP

Speak Now or Forever Hold Your Peace

If you know of any circumstances which might possibly, at some point in the future, give rise to an insurance claim against you and you want coverage under your Insurance Policy, then you must report those circumstances to the Law Society's Professional Liability Claims Fund staff before the end of June.

The current Lawyers Professional Liability Insurance Policy runs from July 1, 2004 to July 1, 2005, as does the CLIA Excess Policy of Insurance and many other excess policies. Lawyers' liability insurance policies are written on a claims made basis. Section 4.2 of our Policy provides coverage for claims made during the policy period, provided that the Insured had no knowledge of the claim or potential claim before the policy period commenced and could not reasonably have foreseen that a claim might arise. Therefore, if you have knowledge of a problem or are concerned about a file now, you should be putting the Professional Liability Claims Fund staff on notice before this policy year runs out on July 1, 2005.

Claims Fund staff can be reached at:
Tana Christianson 926-2011
Kate Craton 925-2012
Louise Ritchie 926-2021
Bonnie Harvey 926-2026

Back to TOP

Paperless Communiqué

What you have in your hands probably looks like paper, feels like paper, and even smells like paper…so, what happened to the electronic version of

Communiqué? Last month we sent you a Bencher Bulletin in electronic format (faxed to those we didn't have email addresses for). We alternate each month between Communiqué and its mini version, the Bencher Bulletin.

Last month was an experiment to see how you would respond to an email Bencher Bulletin and the feedback was pretty good. Still, some people worry that members may not read an email version. Some people didn't like us off-loading the printing cost to those who do want to read it in paper.

So here's the plan....I think electronic is the way to go and I'm pretty sure we'll get there in the future. For the time being, we'll send your Communiqué in paper and the Bencher Bulletins by email and fax. We'll monitor your response and see where that takes us. As always, your advice is most welcome.

Back to TOP

Important Privacy Information

On occasion, the Law Society may provide basic contact information about practising members (name, business address, e-mail address, fax and phone numbers) to professional legal associations, organizations and institutions without charge, to enhance communications with the profession, including information about programs, and to facilitate the maintenance of mailing lists. For example, we have provided basic contact information about our practising members to the Manitoba Bar Association for inclusion in its legal directory. Prior to giving out any contact information, we consider whether the requested information will be used for a purpose that will assist in fulfilling the mandate of the Law Society. Remember, the aim of the Law Society is a public well-served by a competent, honourable and independent legal profession. We also take steps to see that the information will be secured in a manner that is satisfactory to the Society.

You have the option to instruct the Law Society not to provide your basic contact information to any professional legal association, organization or institution.

Office Manager
The Law Society of Manitoba
219 Kennedy Street
Winnipeg, Manitoba
R3C 1S8

Back to TOP

Discipline Notices

Re: JEFFREY LYNN KUNZMAN

TAKE NOTICE THAT by resolution of the Complaints Investigation Committee of the Law Society of Manitoba, effective the 26th day of April, 2005, **JEFFREY LYNN KUNZMAN** was suspended from practising law pursuant to Section 68 of The Legal Profession Act pending a hearing into his conduct.

DATED at the City of Winnipeg, in the Province of Manitoba, this 27th day of April, A.D., 2005.

Marilyn Walder Billinkoff
Deputy Chief Executive Officer

Re: VICTOR STEVEN SAVINO

TAKE NOTICE that by resolution of the Discipline Committee of The Law Society of Manitoba on the 6th day of April, 2005, VICTOR STEVEN SAVINO was found guilty of professional misconduct and conduct unbecoming and was disbarred and his name struck from the Rolls of Barristers and Solicitors of the Society.

DATED at the City of Winnipeg, in the Province of Manitoba, this 30th day of May, 2005.

Allan Fineblit, Q.C.
Chief Executive Officer

Back to TOP

COMMUNIQUÉ BACK ISSUES

February, 2005
November, 2004
July, 2004
May, 2004
April, 2004
January, 2004
September, 2003
May, 2003
January, 2003
September, 2002
May, 2002
February, 2002
November 2001
July 2001

December 2000
September 2000
May 2000
January 2000
October 1999
May 1999
January 1999
September 1998
May 1998